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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/663,950	09/16/2003	Daniel J. de Waal	G&C 31003.24-US-U2	3855

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EXAMINER

DEODHAR, OMKAR A

ART UNIT	PAPER NUMBER
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3714

MAIL DATE	DELIVERY MODE
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01/22/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/663,950

Applicant(s)

DE WAAL ET AL.

Examiner

OMKAR A. DEODHAR

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period **will** apply and **will** expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply **will**, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12/8/2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 7, 9-20, 23, 26-34, 37, 39-50, 53 and 56-60 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 7, 9-20, 23, 26-34, 37, 39-50, 53 and 56-60 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Final Rejection

Response to Amendment & Arguments

This is responsive to Applicant's amendment & arguments submitted 12/8/2008. Applicant's arguments are moot in view of the new grounds of rejection. Although the McCrea Patent is now relied upon in the rejection of all pending claims, Applicant did not present arguments as to why McCrea fails to teach a progressive incremented by game outcomes. Applicant simply summarized the teachings of McCrea without presenting arguments with respect to McCrea's alleged deficiencies. Consequently, all claims are respectfully rejected.

Claim Rejections - 35 USC § 112

Claim 37 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 37 depends on a cancelled claim. Claim 37 has been examined as if it depended from Claim 31. Appropriate correction is required.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-4, 7, 13-15, 31-34, 37 & 43-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et al. (US 6,692,353 B2) in view of Boushy (US 5,761,647) & McCrea (US 6,346,044).

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Regarding claims 1, 31, Walker discloses receiving a first set of game outcomes from play of a game associated with a first slot machine, storing the first set of game data in a database, receiving a second set of game outcomes from play of a second game associated with a second slot machine and storing the second set of game outcomes in the database. Specifically, Walker discloses a bonus game wherein a player may obtain game outcomes from a plurality of slot machines (Walker col. 2, lines 31-33). The game outcomes are then stored in a database (Walker, Figs. 6A-6C). The game play outcomes comprise final and intermediary outcomes, and the bonus is awarded at least in part on the intermediary outcomes. For instance, in the game where a player must obtain 100 lemons, the first outcome is obtaining the first lemon and the last outcome is obtaining the 100th lemon. Lemons 2-99 are intermediate outcomes, but are still necessary for awarding the bonus. Walker further discloses that the bonus may be issued to a set of participating players (col. 14, lines 25-39) and that the bonus parameter set may include a timer period in which both sets of game outcomes must occur (col. 9, lines 11-15).

Walker does not disclose storing game outcomes received from a first enterprise, and storing game outcomes received from a second enterprise independent of the first, wherein the term enterprise is interpreted to mean a business organization.

Boushy discloses a customer tracking system and method wherein a customer is awarded bonus points based on their tracked activity at a plurality of casino properties (Boushy, abstract). The tracking system maintains all wagering activity, including a first set of wagering activity from game play at a first enterprise, and a second set of

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wagering activity from game play at a second enterprise, wherein all game play data is stored in a database (Boushy, col. 8, lines 55-64). Boushy discloses accumulating all wagering data, including the customer's estimated average daily winnings (Boushy, col. 12, lines 55-67). Additionally, the bonus, or comp points, awarded by Boushy are based on the amounts wagered by a player. The higher the wager, the larger the bonus, regardless of whether the outcome is the first, intermediate, or final outcome of the gaming session.

It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to combine the gaming outcome storage of Walker with the inter-casino player tracking of Boushy in order to expand the number of slot machines on which a player may participate in the bonus game of Walker. The analogous inventions disclosed by Walker and Boushy both disclose tracking customer playing activity and issuing awards based on said tracked activity. Additionally, Walker discloses that the invention may be implemented over the Internet (Walker, col. 5, lines 33-36), which may contemplate providing gaming machines in remote locations, such as independent enterprises.

Walker & Boushy do not teach awarding a progressive bonus that is incremented based upon the stored first set of game outcomes associated with a set of participating progressive bonus players and the stored second set of game outcomes associated with the set of participating progressive bonus players.

McCrea teaches a progressive jackpot that may be incremented upon the occurrence of certain game outcomes; for instance if the dealer busts in a game of

blackjack (McCrea, Fig. 6c, stage 672-675). Since players are associated with the game & are playing for the progressive bonus, game incrementing outcomes are interpreted as being associated with players.

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the system taught by Walker & Boushy with McCrea's progressive jackpot. This is viewed as a substitution of known elements with the predictable results of attracting players by offering a progressive jackpot. Players enjoy progressive games. In view of Walker's first & second sets of game outcomes, the claimed limitations are taught.

Further, since Walker teaches that a bonus parameter set may include a time period in which the outcomes in the first set of game outcomes occurred and the outcomes in the second set of game outcomes occurred (Walker, col. 9, lines 10-32) & in view of the progressive game taught by McCrea, the prior art combination teaches that the progressive bonus parameter set includes a time period in which the outcomes in the first set of game outcomes occurred and the outcomes in the second set of game outcomes occurred.

Regarding claims 2 & 32, Walker discloses that the game outcomes are stored in a database associated with an identity of a player (col. 10, lines 11-25).

Regarding claims 3 & 33, Boushy discloses that the database is maintained by an enterprise organizationally distinct from the first enterprise and the second enterprise (col. 4, lines 16-25).

Regarding claims 4 & 34, a player may be awarded a bonus based on the first set of game outcomes and the second set of game outcomes associated with a player. As disclosed in Walker, a player's gaming outcomes are stored for each play session at a slot machine and a bonus may be issued based upon said sets of gaming outcomes (col. 14, lines 25-39). Additionally, Boushy discloses that the player is awarded comp points, i.e. a bonus, for their tracked betting activity (col. 8, line 55- col. 9, line 2). The player may exchange these points, gifts, meals, cash, etc. (abstract).

Regarding claims 7 & 37, the bonus parameter set may include a minimum-qualifying wager. This is true of Walker, as the slot machine requires a minimum wager to be made in order to proceed with play of the primary game, and because the bonus is awarded based on the outcomes of the primary game, a minimum wager must be made in order to qualify for the bonus.

Regarding claims 13 & 43, wherein the first and second set of game outcomes comprise winning outcomes and losing outcomes, several of the games disclosed by Walker involve obtaining a predetermined number of symbols, as can be seen in Fig. 5B, wherein a bonus game is disclosed wherein obtaining 100 lemons qualifies a player for an award. The lemons may be obtained in any number of slot machine reel display configurations, including non-winning configurations. For instance a player may obtain a reel configuration of cherry, lemon, and bar, which may not qualify for an award in the primary game payable but puts the player at having obtained 100 lemons, earning them a bonus rewards. Therefore, the gaming outcomes may comprise winning and non-winning configurations.

Regarding claims 14, 15, 44, 45, Boushy discloses tracking player wagering data at live table games, and further that tracking players at live table games involves reading an identification card and entering betting data (Boushy, col. 5, line 65 – col. 6, line 7).

Claims 9-12, 16-20, 23, 26-30, 39-42, 46-50, 53 & 56-60 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et al. (US 6,692,353 B2) in view of Boushy (US 5,761,647) & McCrea (US 6,346,044), as applied to claim 1, in yet further view of Acres (US 6,319,125).

Regarding claim 9, the prior art combination of Walker, Boushy & McCrea teach the invention as described about, but does not teach a first portion of the progressive bonus is awarded to one of the participating players based upon the stored first set of game outcomes associated with the one of the participating players and the stored second set of game outcomes associated with the one of the participating players and a first award bonus parameter set; and a second portion of the progressive bonus is awarded to a subset of the set of participating progressive bonus players based upon the stored first set of game outcomes associated with a subset of the set of participating bonus players and the stored second set of game outcomes associated with the subset of the set of participating bonus players and a second award bonus parameter set.

Acres discloses a method of awarding a progressive jackpot bonus prize (col. 7, line 65 – col. 9 line 12), wherein a first set of players is awarded one bonus and a secondary subset of eligible players are awarded a second bonus, referred to as a consolation prize.

It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to modify the progressive gaming system taught by the prior art combination of Walker, Boushy & McCrea to divide the progressive award among one player & a subset of another group of participating players as taught by Acres. This is viewed as a substitution of known elements with the predictable results of motivating a group of players to continue wagering by providing them consolation prizes. It is well within the level of ordinary skill to divide progressive game awards amongst players in the claimed manner.

Regarding claims 16, 23, 28, 46, 53 & 58 the claim limitations are disclosed as presented above with respect to claims 1 & 9. Additionally, Walker discloses accepting, recording and comparing a plurality of game play outcomes comprising winning and non-winning outcomes, including losing outcomes, and awarding a bonus if the game play outcomes match the qualifying game play outcome requirement. One of the games disclosed by Walker involves obtaining a predetermined number of symbols, as can be seen in Fig. 5B, wherein a bonus game is disclosed wherein obtaining 100 lemons qualifies a player for an award.

The lemons may be obtained in any number of slot machine reel display configurations, including non-winning configurations. For instance a player may obtain a reel configuration of cherry, lemon, and bar, which may not qualify for an award in the primary game payable but puts the player at having obtained 100 lemons, earning them a bonus rewards. Therefore, the gaming outcomes may comprise winning and non-winning configurations.

Further, the game play outcomes comprise final and intermediary outcomes, and the bonus is awarded at least in part on the intermediary outcomes. For instance, in the game where a player must obtain 100 lemons, the first outcome is obtaining the first lemon and the last outcome is obtaining the 100th lemon. Lemons 2-99 are intermediate outcomes, but are still necessary for awarding the bonus.

Additionally, the bonus, or comp points, awarded by Boushy are based on the amounts wagered by a player. The higher the wager, the larger the bonus, regardless of whether the outcome is the first, intermediate, or final outcome of the gaming session. The bonus is computed based at least in part on non-winning outcomes.

Regarding claims 10, 39 and 40, Walker discloses that a first portion of the bonus may be awarded to one of the participating player based on their accumulated game outcomes and that a second portion of the bonus may be awarded to a subset of the players based upon their accumulated game outcomes in col. 15, lines 21-42. Further, in view of Acres's bonus progressive award & consolation award, the claimed limitations are taught.

Regarding claims 11 & 41, Walker discloses that the games are poker games (col. 3, lines 54-57) and the qualifying outcome is a number of poker hands (col. 10, lines 38-47).

Regarding claims 12 & 42, wherein a selected player may be awarded a second bonus based upon the first and second set of game outcomes and a second bonus parameter set, in Fig. 5B Walker discloses that upon obtaining 6 jackpots (i.e. bonuses) with payouts of more than 20 tokens, a player may be awarded a second

bonus of \$30. Further, in view of Acres's bonus progressive award & consolation award, the claimed limitations are taught.

Regarding claims 17 & 47, Walker discloses that the bonus may be awarded if the game play outcomes match the qualifying game play outcome requirement within a qualifying time period (Fig. 5A, "Game Time Limit"; col. 9, lines 12-15).

Regarding claims 18 & 48, Walker discloses the qualifying game play outcome requirement is a combination of game play outcomes (Fig. 5B).

Regarding claims 19 & 49, Walker discloses the combination of game play outcomes includes a sequence of game play outcomes (col. 8, lines 28-41).

Regarding claims 20 & 50, the prior art combination teaches table games including poker. Wildcards game play outcomes are used in poker games.

Regarding claims 29, 30, 59 & 60, Boushy discloses tracking player wagering data at live table games, and further that tracking players at live table games involves reading an identification card and entering betting data (Boushy, col. 5, line 65 – col. 6, line 7).

Regarding claims 26, 56 & 57, Acres's increment qualifying amount is a pre-specified final outcome (a dealer busts & a pre-specified amount of the ante is added to the jackpot). See also the rejection of claim 46, above.

Regarding claim 27, the prior art combination teaches the claimed limitations as presented in the rejections above.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to OMKAR A. DEODHAR whose telephone number is (571)272-1647. The examiner can normally be reached on M-F: 8AM - 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on 571-272-4690. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/OAD/

/Corbett Coburn/
Primary Examiner
AU 3714